

1 JOHN L. BURRIS, Esq./ State Bar #69888  
2 BENJAMIN NISENBAUM, Esq./State Bar #222173  
3 JAMES COOK, Esq./State Bar #300212  
4 LAW OFFICES OF JOHN L. BURRIS  
5 Airport Corporate Centre  
6 7677 Oakport Street, Suite 1120  
7 Oakland, California 94621  
8 Telephone: (510) 839-5200/Facsimile: (510) 839-3882

9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT  
11  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA  
13

14 NEFTALI MONTERROSA, individually and as  
15 co-successor-in-interest to Decedent SEAN  
16 MONTERROSA; NORA MONTERROSA,  
17 individually and as co-successor-in-interest to  
18 Decedent SEAN MONTERROSA; MICHELLE  
19 MONTERROSA, individually; ASHLEY  
20 MONTERROSA, individually,

21 Plaintiffs,

22 vs.

23 CITY OF VALLEJO, a municipal corporation;  
24 JARRETT TONN, individually, and Vallejo  
25 police officers DOES 1-25, inclusive,

Defendants.

Case No. 2:20-cv-01563-TLN-DB

**STIPULATION TO AMEND  
COMPLAINT AND ORDER**

**STIPULATION**

WHEREAS Plaintiffs filed an initial Complaint in this action on August 6, 2020, and Defendants filed a Motion to Dismiss on October 6, 2020, to which Plaintiffs have filed an opposition and Defendants have filed a Reply, among other motion practice between Plaintiffs and Defendants.

STIPULATION AND ORDER TO FILE FIRST AMENDED COMPLAINT  
Monterrosa v. City of Vallejo, et al.  
Case No. 2:20-cv-01563-TLN-DB

1 WHEREAS Plaintiffs served an administrative claim concerning state law causes of  
2 action against Defendants on August 21, 2020, and more than 45 days have passed since its  
3 service.

4 The parties thereon stipulate that Plaintiff shall file a First-Amended Complaint setting  
5 forth the state law wrongful death cause of action, only making the necessary modifications to  
6 the First-Amended Complaint to address the addition of the state law wrongful death cause of  
7 action, within 14 days of the Court issuing an Order on this stipulation permitting Plaintiffs to  
8 file a First-Amended Complaint.

9 The parties further stipulate that the current motion to dismiss and all motions currently  
10 pending before the Court shall remain in effect: The proposed First-Amended Complaint  
11 (attached as Exhibit A) does not implicate any contention raised in the parties' ongoing motion  
12 practice, and is filed to preserve Plaintiffs' state law wrongful death claim. The parties shall  
13 respond appropriately once the Court issues an Order on the pending Motion to Dismiss.

14 The parties further stipulate that the Court's pending Order on Defendants' Motion to  
15 Dismiss shall be effective as to the First-Amended Complaint attached as Exhibit A to be filed  
16 following the issuance of the instant-order, to avoid duplicative filings, unnecessary delay, and to  
17 avoid wasting the Court's time.

18 IT IS SO STIPULATED.

19 Respectfully submitted,

20 Dated: December 14, 2020

**THE LAW OFFICES OF JOHN L. BURRIS**

21 /s/ Benjamin Nisenbaum

22 Ben Nisenbaum

23 Attorneys for Plaintiffs

1 DATED: December 18, 2020

/s/ KATELYN M. KNIGHT  
MEERA BHATT  
KATELYN M. KNIGHT  
FARRAH HUSSEIN  
Attorneys for Defendants  
CITY OF VALLEJO  
and JARRETT TONN

8 **ORDER**

9 The parties' instant-stipulation is hereby granted. Plaintiffs shall file a First-Amended  
10 Complaint within 14 days of the issuance of this Order.

11 The pending motions the Court has previously taken under submission shall be effective  
12 as to the First-Amended Complaint as set forth in Exhibit A to the instant-stipulation. The  
13 parties shall respond as directed by the Court's Order on Defendants' pending Motion to  
14 Dismiss.

15 IT IS SO ORDERED.

16 Date: \_\_\_\_\_

17 \_\_\_\_\_  
Hon. Troy L. Nunley